THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.21288 OF 2005

Between:

M/s.Parameswar Tarpaulin Industries,

Samalkot, East Godavari District

Reo, vt uts Proprietrix, P.Nagamani.

…Petitioner.

AND

The Commercial Tax Officer,

Peddapuram East Godavari District and two others.

….Respondents.

Date:29.09.2005

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.21288 OF 2005

ORDER: (Per JC,J)

The petitioner is the propriety concern and a dealer registered under the Andhra Pradesh General Sales Tax Act, 1957, carrying on the business in cotton tarpaulins and cotton school bags. For the assessment year 2001-2002, the assessing authority proposed to review tax on a turnover of Rs.29,30,900/- at 4%.

The petitioner claimed that the goods be exempted from the tax. The objection of the petitioner was not accepted and an assessment order, dated 08.01.2003, levying tax, as proposed, was passed. Thereafter, the petitioner preferred an appeal before the second respondent herein. An application for stay was filed along with the appeal. The said application was rejected. Aggrieved by the rejection, the petitioner preferred a revision before the 3rd respondent unsuccessfully. Challenging the same, the petitioner earlier approached this Court in W.P.No.13469 of 2005. This Court disposed of the writ petition granting stay on a condition of payment of 50% of the disputed tax within a period of four weeks. The petitioner in the affidavit submits that the said condition was complied with. In the meanwhile the second respondent disposed of the appeal of the petitioner by an order, dated 25.02.2005 partly allowing the same.

Aggrieved by that portion of the order by which the appeal was partly dismissed, the petitioner preferred further appeal before the A.P. Sales Tax Appellate Tribunal and hence the present writ petition with the prayer as follows:

> ".. to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the –
>
> a. that cotton tarpaulins falls under Item 5 of Fourth schedule to the APGST Act since it is included in the Schedule to the Additional Duties of

Excise Act in chapter heading No.59.03 and hence the 1st respondent cannot levy tax on such goods;

b. Explanation to IV Schedule of APGST Act as contrary to provisions of Additional Duties of Excise Act; and

c. Restraining 1st Respondent from taking any coercive steps for recovery of balance disputed tax of Rs.42,098/- till disposal of Tribunal Appeal before Sales Tax Appellate Tribunal for the assessment year 2002-02 and …"

Heard the learned Government Pleader for respondents.

In view of the orders passed by this Court earlier in W.P.No.13469 of 2004 and the consequential compliance with the conditional order, the petitioner now asserts that the outstanding demand is only Rs.42,098/-. In the circumstances, we deem it appropriate to dispose of the writ petition directing the respondents not to enforce the demand pursuant to the assessment order referred to earlier as confirmed by the first appellate authority, during the pendency of the appeal before the Sales Tax appellate Tribunal.

The writ petition is accordingly disposed of.

_____

J.CHELAMESWAR, J.

Dated:29.09.2005.

_____

M.VENKATESWARA REDDY,J.

GS